

**UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE**

KAREN BARKES, et al.	)	
	)	
	)	
Plaintiffs	)	C.A. No. 06-104
	)	
v.	)	
	)	
FIRST CORRECTIONAL MEDICAL, INC., et al.	)	JURY OF 12 DEMANDED
	)	
Defendants.	)	

**FIRST CORRECTIONAL MEDICAL’S ANSWER TO STATE DEFENDANTS’ CROSS-  
CLAIM AGAINST FIRST CORRECTIONAL MEDICAL FOR CONTRACTUAL  
DEFENSE AND INDEMNIFICATION**

1. Admitted.
2. Admitted.
3. Denied. By way of further answer, the contractual language speaks for itself.
4. Denied.
5. Denied.
6. Denied.
7. Denied.
8. Wrongful conduct by answering defendant is denied and it is hereby denied that any actions of the answering defendant caused any illnesses, injuries, or damages of any nature to the plaintiff.
9. Denied.
10. Answering defendants incorporate by reference paragraphs 1-9 of the Answer to the Cross-claim as if more fully set forth herein.

11. Denied.

12. Denied.

13. Denied. By way of further answer, co-defendant's paragraph 13 is nonsensical.

**WHEREFORE**, defendant First Correctional Medical demands that the action against it be dismissed and that it be awarded the costs of defense of this action.

**FIRST AFFIRMATIVE DEFENSE**

This claim is barred by the doctrine of Accord and Satisfaction.

**SECOND AFFIRMATIVE DEFENSE**

This claim is barred by State Defendants' Assumption of Risk.

**THIRD AFFIRMATIVE DEFENSE**

This claim is barred by State Defendants' Comparative Negligence.

**FOURTH AFFIRMATIVE DEFENSE**

This claim is barred by the doctrine of Estoppel.

**FIFTH AFFIRMATIVE DEFENSE**

This claim is barred for Failure of Consideration.

**SIXTH AFFIRMATIVE DEFENSE**

This claim is barred by Laches.

**SEVENTH AFFIRMATIVE DEFENSE**

State Defendants failed to state a claim upon which relief may be granted.

**EIGHTH AFFIRMATIVE DEFENSE**

The indemnification clause cited by State Defendants does not indemnify the State for acts of negligence committed by State Employees.

**McCULLOUGH & McKENTY, P.A.**

/s/ Dana Spring Monzo

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Dated: June 12, 2006

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Defendants.	)	

**CERTIFICATE OF SERVICE**

I, **Dana Spring Monzo**, hereby certify that on this date a copy of the attached *First Correctional Medical's Answer to State Defendants' Cross-Claim Against First Correctional Medical for Contractual Defense and Indemnification*, was efiled and served via first class mail upon the following:

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